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LB 310

Revision: 01

Updated for the 2012 Session. Includes any amendments adopted to-date.

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *				
	FY 2011-12		FY 2012-13	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

This bill would change provisions relating to protection orders.

In 2011, the Supreme Court estimated no fiscal impact. Their 2011 response follows:

LB 310 could have an impact on judicial caseload from an increase in protection orders, but any increase is not expected to be significant. It is assumed that the expense of any attorney appointed by the court for indigent petitioners would be an expense of the county in which the attorney is appointed.

The Department of Correctional Services (DCS) has informed the Legislative Fiscal Office that they have no change in their 2011 response to this bill. In 2011, DCS stated that this bill could potentially result in more individuals sentenced to DCS for felony violation of a protection order, the impact is not determinable. Their response follows:

LB310 includes provisions that increase penalties for violation of a protection order. Any person knowingly violating an order is guilty of a Class I misdemeanor (0-1 year imprisonment). (Currently they are guilty of a Class II misdemeanor (0-6 mo. imprisonment)).

Additionally, anyone convicted of violating a protection order, who has a prior conviction for violating a protection order, shall be guilty of a Class IV felony (0-5 yrs imprisonment). Previously the penalty was a Class I misdemeanor, unless they had a prior conviction for violating the same protection order or a protection order granted to the same individual, in which case it was a Class IV felony.

While the bill could potentially result in more individuals sentenced to NDCS for felony violation of a protection order, the impact is not determinable. There were 14 individuals sentenced to NDCS for violation of a protection order in CY2009, and 18 individuals sentenced to NDCS in CY2010. Penalties ranged from 0-3 months to two to five years.

DCS current inmate population is 4,599 (1/18/2011 Tuesday Count). The FY10 per diem (cost per day of feeding, clothing, housing, medical, etc) for an individual inmate was \$5,625/yr.

IMPACT ON POLITICAL SUBDIVISIONS: In the 2011 Session, Lancaster County stated the following regarding this bill: Attorney fees for appointed attorneys. The 4 year average of requested Protection Orders in Lancaster County is 746 cases. Lancaster County did not have any figures for the percentage of these cases where the petitioner is indigent, which triggers appointment of counsel under this bill, so they estimated 25% would be indigent and this would be 186.5 cases per year. Attorney will need to interview clients, prepare documents, do investigations, and legal research. Lancaster County estimates 5 hours average attorney time per case for a total of 932.5 attorney hours per year. At an average rate of \$75 per hour, Lancaster County estimates \$69,937 per year for attorney fees.

In the 2011 Session, the Douglas County District Court estimated the following fiscal impact from this bill:

Total Protection Orders Per Year	3,500
Domestic Violence Protection Orders Per Year	2,500
Percent where respondent has an attorney	35%
Number of cases where respondent has an attorney	875
Estimated cost per case	\$ 200
Total estimated cost per year	\$ 175,000

In the 2011 Session, the Douglas County District Court Clerk estimated this bill will increase the Clerk's expenditures by \$2,300 per year. The Clerk states that 50% of all protection orders are handled by the County Court. As a result, the Clerk's Office will need to prepare all of their cases for the mandatory hearings that will result because of the Domestic Protection Orders increase. They anticipate 70% of protection orders will be domestic, and it will take staff 15 minutes per case to pull and prepare for the hearings. The Clerk calculated an average wage of \$14 per hour plus 30% in benefits divided by the ¼ hour the staff will need to prepare the cases and this works out to approximately \$4.50 per case. The Clerk estimated 1,155 cases for an estimated amount of \$5,200, and then reduced this amount by the percent of county court cases that already are Domestic Protection Orders to arrive at the estimated cost of the additional workload of \$2,300 per year.